
BZA-1714
EDWARD J. & CAROL A. PURDY
Variance

STAFF REPORT
April 20, 2006

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, represented by attorney, Daniel Teder, are requesting the following variance: to permit the 100' setback line, fence, and 20' bufferyard along the eastern side of "Mining Phase 1 area as depicted on drawing marked Exhibit B1" be relocated to the eastern side of "Mining Phase 2 area as depicted on drawing marked Exhibit B2 upon the occurrence of any mining operations extending into the Mining Phase 2 area". This variance request has been filed in conjunction with the "Request to Modify Conditions of BZA-1591", shown prior to this case on the April meeting agenda. The site in question is a 180 acre tract located on the southeast corner of CR 150 E and CR 510 S, Wea 21 (E1/2) 22-4.

AREA ZONING PATTERNS:

The area within this request is zoned Agricultural and Flood Plain. When the previous special exception was filed in 2001 (BZA-1591) a flood plain certification for roughly 14 acres of the petition site was also filed amending the zoning map.

Across the creek are several AW (Agricultural Wooded) zoned tracts lining Wea School Road. Properties to the north and northwest, beyond the flood plain of the Wea Creek, are zoned R1, Single-family Residential. Surrounding land to the east, south and west is zoned either A or FP.

Except for the properties along Wea School Road and CR 510 S that have been certified out of the Flood Plain and are now zoned AW or R1, the existing zoning pattern is identical to the oldest County zoning maps.

AREA LAND USE PATTERNS:

The property in question is heavily wooded adjacent to Wea Creek, which roughly follows the northern border of petitioner's request. There is a house on the site, and a few outbuildings associated with the former Purdue-O'Neal Farm. The O'Neal Cemetery, dating from the 1830's, has been excepted out of the legal description of this case. These buildings and the cemetery are situated north of the mining area and east of the proposed batch plant.

Several homes exist on the north side of CR 510, one house is on the south side of the

road, to the west of this request. Gravel mining adjacent to the west and south received a special exception under the old zoning ordinance in 1986 (BZA-972). Vulcan Materials currently runs this operation. A second mining operation was granted a special exception in 1996 and is located farther to the west along CR 100 E (BZA-1351). Petitioners operate this gravel extraction pit. Land to the east and southeast is farmed.

TRAFFIC AND TRANSPORTATION:

CR 510 S is a two-lane paved secondary connecting S. 18th Street (CR 150 E) and old US 231, roughly one and ½ miles to the west. The access for petitioners' site joins the driveway for the adjacent Vulcan mining operation at 510 S near the right-angle north bend the road takes when it becomes 18th Street. In 2001 when the special exception for this mining operation was heard, staff, as well as the County Highway Department, was concerned that the proposed exit's turning radius would be insufficient for dump trucks leaving the site in question.

Currently, the County Highway Department is in the middle of a project that will completely overhaul this corner. The project involves removing the existing bridge at the intersection as well as the curve and completely redesigning this corner as a typical 90-degree, 4-way stop intersection. With the heavy trucks using the soon-to-be straightened driveways from the two existing mining operations, and with these drives intersecting with the county roads at a 4-way stop, this intersection will be considerably safer for motorists in the near future.

ADDITIONAL INFORMATION REGARDING THE MINING OPERATION:

The special exception petition for BZA-1591 stated that if approved by the Board, the mining operation would begin in May of 2002 and would end in May 2022. At the end of mining, the reclamation of the land would take 18 months. The petition further states that sand and gravel would be "extracted to a depth of 30 to 40 feet. It is anticipated that the final excavations will become water-filled to a level approximately 20 to 25 feet below the original surface resulting in a lake with a water depth of approximately 18 feet." According to the petition, "No water will be pumped off the property from this site. Water is recirculated to and from our mining ponds on the property."

Petitioners voluntarily agreed to a commitment that would "limit the number of trucks to ten trucks entering and ten trucks leaving the site on a daily basis until its present mining operation along CR 100 E (BZA-1351) has ended and the reclamation for that site has begun." The CR 100 E mining operation is located just south of the radio towers at the corner of 9th and CR 510 S. This request was approved in April 1996 for a period of 10 years, so the mining operation at that site should be coming to an end. Because the commitment limited the number of additional trucks traveling on CR 510 S until the westernmost mining operation in the area was completed in 2006, truck traffic at the intersection of CR 510 S and CR 150 E will likely soon increase substantially. BZA-972, which is immediately adjacent to the west, was approved in 1989 for a 20 year period. That special exception approval has less than 3 years remaining.

STAFF COMMENTS:

Regarding this variance request, the granting of it, along with the approval of the modification of BZA-1571, would allow petitioner to place the buffer, fence, and 100' setbacks in the appropriate locations depending on which area of the special exception site is being mined.

Regarding the ballot items:

1. The Area Plan Commission has determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. It would allow the protections the ordinance requires for this type of use, to be placed when and where needed to protect adjacent properties.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. The adjacent property would be protected by the required fencing, bufferyard, and 100' setback, just in different locations depending on what land is being mined.
4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. The need for this variance is derived solely from the Board-approved conditions of the initial special exception.
5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. By not allowing petitioners to relocate the buffer, fencing, and 100' setback, no purpose is being served.

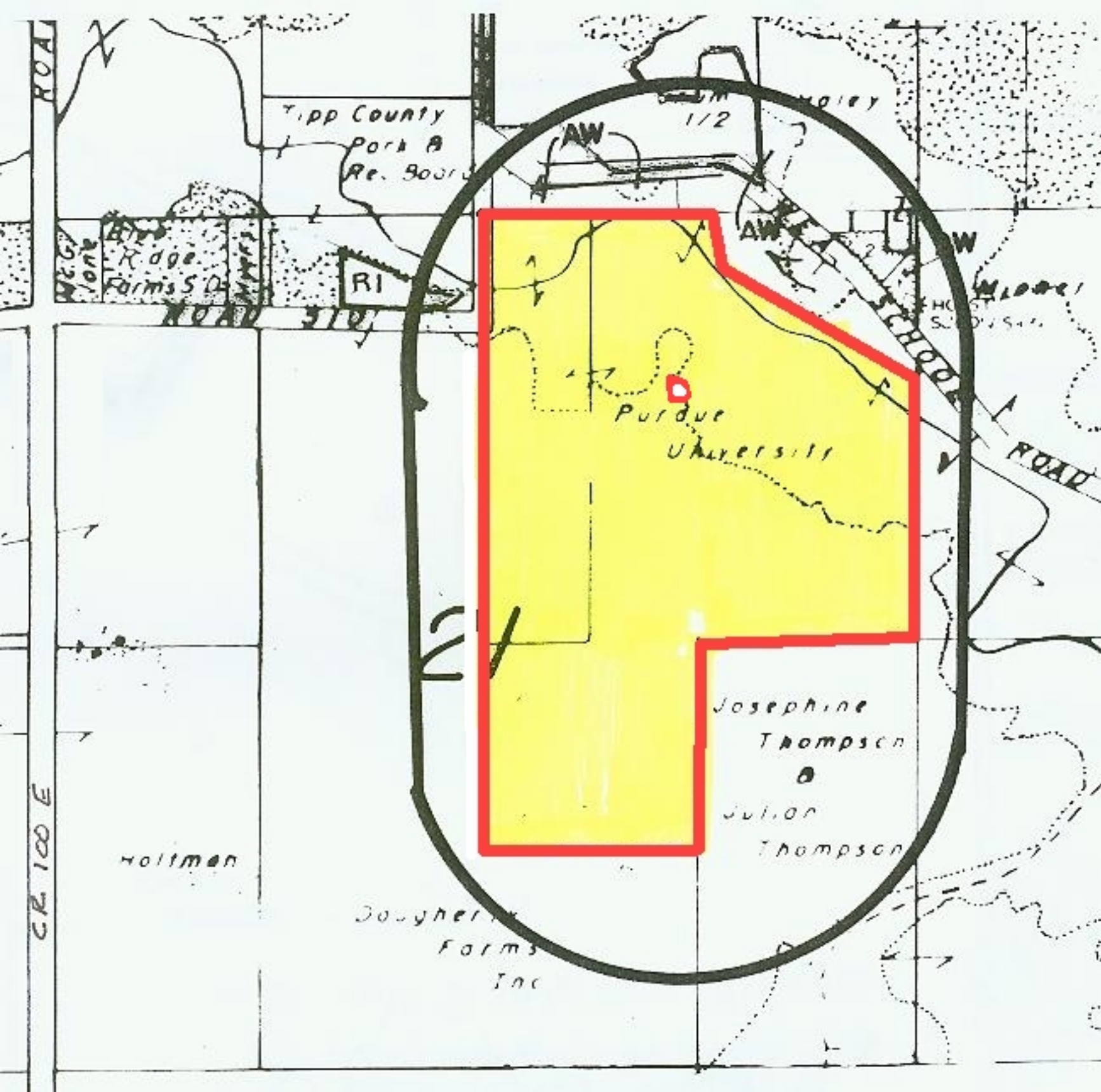
Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. In fact, relocating the bufferyard and the fencing would be more costly than keeping them in the originally approved locations.

5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship. The buffer, fence, and setbacks will be relocated prior to the start of mining operations in order to protect adjacent properties.

STAFF RECOMMENDATION:

Approval



Tipp County
Park B
Re. 900

RI

Purdue
University

Josephine
Thompson
Julian
Thompson

Dougherty
Farms
Inc

Holtman

CR 100 E

ROAD

ROAD 310

1/2

AW

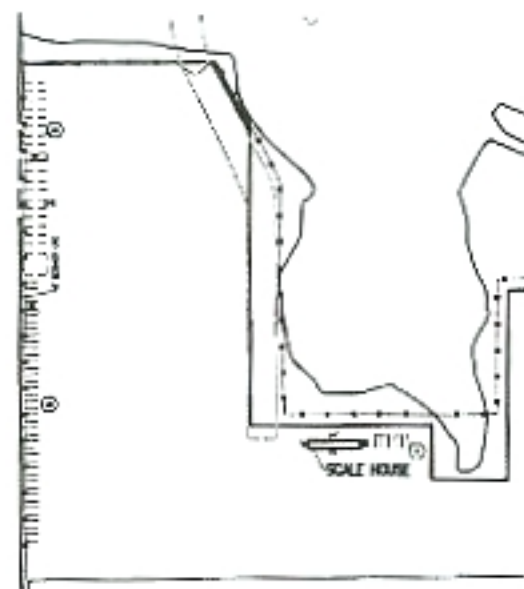
AW

W

Holtman
S.D.

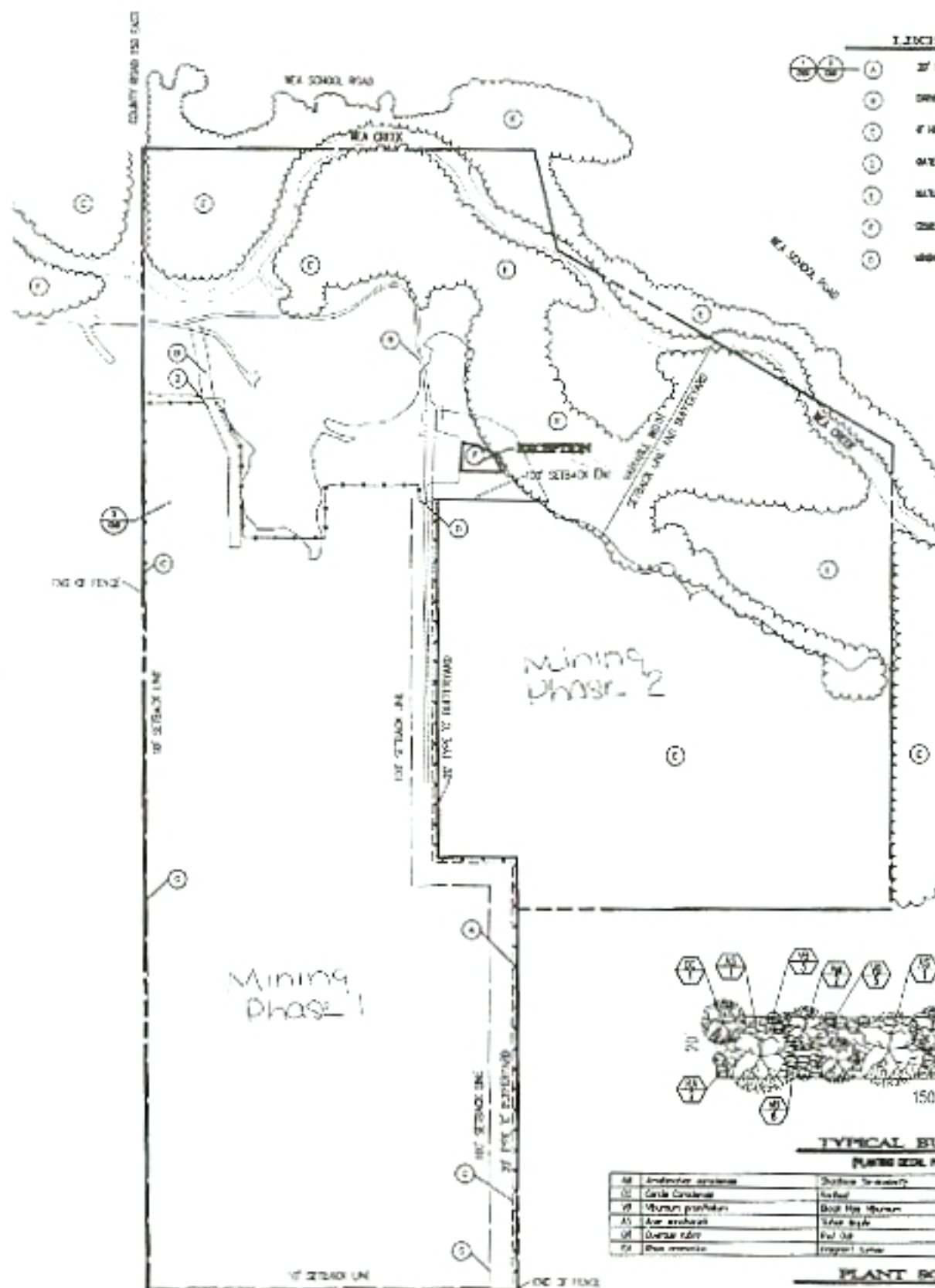
ROAD

SCHOOL



ENTRANCE/PARKING DETAIL

EXHIBIT
31



- LEGEND
- 27" TYP. 1" RAILROAD
 - DIRE
 - 4' HIGH SECURITY FENCE
 - RAIL
 - NATURAL VEGETATION COR
 - CHERRY (EXISTING)
 - WIDE LANE



HOLDY MEINER DAYS
"DON'T
DIG
BLIND"



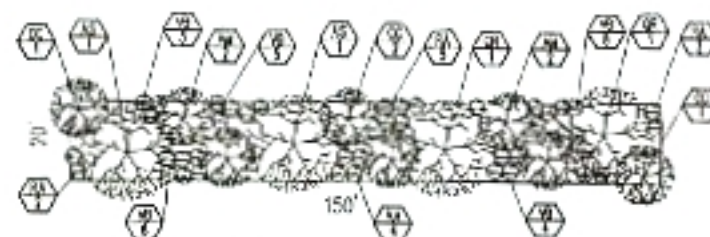
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TYPICAL BUFFERYARD
PLANT SCHEDULE PER 10' (SEE SET)

PLANT	THREAT	1	2	3	4
1. American arbutus	Shrub	1	2	3	4
2. Cedar cedar	Shrub	1	2	3	4
3. Mexican persimmon	Shrub	2	3	4	5
4. Live oak	Tree	2	3	4	5
5. Live oak	Tree	2	3	4	5
6. Live oak	Tree	2	3	4	5
7. Live oak	Tree	2	3	4	5
8. Live oak	Tree	2	3	4	5
9. Live oak	Tree	2	3	4	5
10. Live oak	Tree	2	3	4	5
11. Live oak	Tree	2	3	4	5
12. Live oak	Tree	2	3	4	5
13. Live oak	Tree	2	3	4	5
14. Live oak	Tree	2	3	4	5
15. Live oak	Tree	2	3	4	5

PLANT SCHEDULE

